

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE Motion to Compel Production of Documents
Pursuant to Subpoena Duces Tecum

Civil Action No. 1:20-mc-91045-ADB

CELGENE CORPORATION,

Plaintiff,

v.

HETERO LABS LIMITED, HETERO LABS
LIMITED UNIT-V, HETERO DRUGS
LIMITED, HETERO USA, INC., AUROBINDO
PHARMA LIMITED, AUROBINDO PHARMA
USA, INC., AUROLIFE PHARMA LLC,
EUGIA PHARMA SPECIALTIES LIMITED,
APOTEX INC., APOTEX CORP., MYLAN
PHARMACEUTICALS, INC., MYLAN
INC., MYLAN, N.V., BRECKENRIDGE
PHARMACEUTICAL, INC., and TEVA
PHARMACEUTICALS USA, INC.

Defendants.

*Underlying action pending in U.S. District
Court for the District of New Jersey*

Civil Action No. 2:17-cv-03387-ES-MAH
(Consolidated)

**PROPOSED INTERVENOR CELGENE CORPORATION'S UNOPPOSED MOTION
FOR IMPOUNDMENT OF EXHIBITS TO ITS MEMORANDUM**

Celgene Corporation ("Celgene"), plaintiff in the underlying action (*Celgene Corporation v. Hetero Labs Limited et al.*, No. 2:17-cv-3387-ES-MAH (D.N.J.)), intends to file today its Motion to Intervene and to Deny the Motion to Compel, or to Transfer, and its supporting Memorandum.

In advance of that filing, Celgene, pursuant to Local Rules 7.1 and 7.2, hereby moves to impound **Exhibit 2** (November 7, 2019 Order, Dkt. 499, Case No. 2:17-cv-03387-ES-MAH (D.N.J.)) and **Exhibit 4** (April 22, 2019 Joint Letter, Dkt. 340, Case No. 2:17-cv-03387-ES-MAH (D.N.J.)).¹ These materials were sealed in the District Court for the District of New Jersey because they contain information designated as highly confidential pursuant to the Discovery Confidentiality Order entered by the Court in that action (Dkt. 152, Case No. 2:17-cv-03387-ES-MAH (D.N.J.)), which protects “trade secret, business confidential, or proprietary information.” *Id.* at 4. Specifically, Judge Hochberg filed **Exhibit 2** under seal pursuant to the District of New Jersey “Order Appointing Special Discovery Master.” *See* Dkt. 449 at ¶ 9, Case No. 2:17-cv-03387-ES-MAH (D.N.J.). **Exhibit 4** was ordered sealed by Judge Hammer following a joint motion to seal filed by all parties to the New Jersey action (including Celgene and the moving parties here). *See* Dkt. 347, Case No. 2:17-cv-03387-ES-MAH (D.N.J.).

The redacted versions of these documents are included as **Exhibit 1** (November 17, 2019 Order, Dkt. 537, Case No. 2:17-cv-03387-ES-MAH (D.N.J.)) and **Exhibit 3** (April 22, 2019 Joint Letter, Dkt. 346, Case No. 2:17-cv-03387-ES-MAH (D.N.J.)) to Celgene’s Memorandum. However, the sealed versions are necessary to provide this Court a comprehensive view of the underlying District of New Jersey litigation.

Celgene respectfully request that the Court grant this motion and impound **Exhibit 2** and **Exhibit 4** until such time as the Court deems it appropriate to lift the impoundment and return custody of these materials to the parties.

¹ In accordance with this Court’s Standing Order Re: Electronic Filing, Celgene has delivered to the Court a compact disk containing Exhibit 2 and Exhibit 4.

Respectfully submitted,

Dated: January 29, 2020

/s/ Patrick D. Curran

Patrick D. Curran (BBO# 568701)

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document, filed through the CM/ECF system, will be sent electronically to the registered participants of record as identified on the Notice of Electronic Filing on January 29, 2020.

/s/ Patrick D. Curran

LOCAL RULE 7.1 CERTIFICATION

I certify that Celgene Corporation has complied with the provisions of Local Rule 7.1 by conferring via email with Kristina R. Cary of Kirkland & Ellis, Philip J. Kouyoumdjian of Taft Stettinius & Hollister LLP, and Scott J. Nathan of FisherBroyles LLP (collectively, counsel for Movants) on January 28, 2020. Movants do not object to Celgene's motion to impound.

/s/ Patrick D. Curran